

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
MIDDLE DIVISION**

**K.R., a minor, by and through his foster )  
parent and next friend, ALBERT G. )**

**Plaintiff, )**

**v. )**

**CIVIL ACTION NO.:  
4:09-CV-1307-PWG**

**ETOWAH DEVELOPMENTAL )  
ACADEMY, LLC, and SUE HOLLAND, )**

**Defendants. )**

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**ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND  
RECOMMENDATION**

On March 26, 2010 the Magistrate Judge's Findings and Recommendation was filed. No objections have been filed by either the plaintiff or defendants pursuant to Rule 72(b) of the *Federal Rules of Civil Procedure*.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the findings and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby **ADOPTED** and his recommendation is **ACCEPTED**. It is **ORDERED** that defendants' motion to dismiss (Doc. 6) is **GRANTED IN PART AND DENIED IN PART**. The motion is **GRANTED** to the extent that it seeks the dismissal (1) of claims against both defendants under § 504 of the Rehabilitation Act and its implementing regulations

based upon the defendants' failure to provide the plaintiff with an education that is either "public" or "free"; and (2) of the claims against both defendants for fraud under Alabama state law. It is **ORDERED** that the motion is **DENIED IN PART**, as it relates to the remaining claims, leaving viable the following: (1) all claims against both defendants under § 504 and its regulations based on allegations *other than* a right to an education that is either "public" or "free" and (2) the contract claims under Alabama law against both defendants.

**DONE** this the 26th day of April, 2010.



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**VIRGINIA EMERSON HOPKINS**

United States District Judge